

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

A.R.No.58 of 2006

APPLICANT:-

K.S. & COMPANY,
HAVING ITS REGISTERED OFFICE AT PLOT NO.39,
ANNA NAGAR, MADURAI-625 020,
REPRESENTED BY ITS PARTNER, K.SUNDARESAN,
AGED 42 YEARS, S/O. M.KRISHNAMOORTHY,
K.S. & COMPANY, PLOT NO.39, ANNA NAGAR,
MADURAI - 625 020.

BY ADV. SRI.K.S.BABU
SMT.N.SUDHA

OPPOSITE PARTIES:-

1. ROADS AND BRIDGES DEVELOPMENT CORPORATION OF KERALA LTD.,
(A GOVT. OF KERALA UNDERTAKING),
HAVING ITS REGISTERED OFFICE AT 2ND FLOOR,
PREETHI BUILDING, M.V.ROAD, PALARIVATTOM, KOCHI-682 025,
REPRESENTED BY ITS MANAGING DIRECTOR.
2. M/S. KITCO LTD., P.B.NO.1820,
RAVIPURAM, M.G.ROAD, KOCHI-682 016,
REPRESENTED BY ITS MANAGING DIRECTOR.
3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
PUBLIC WORKS DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

R3 BY SENIOR GOVERNMENT PLEADER SRI.M.R.SABU.

THIS ARBITRATION REQUEST HAVING BEEN FINALLY HEARD
ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

V.K.Bali,C.J.

Arbitration Request No.58 of 2006

Dated, this the 13th day of December, 2006

ORDER

V.K.Bali,C.J. (Oral)

The prayer in this application filed under Sections 10, 11, 14 and 15 of the Arbitration & Conciliation Act, 1996, hereinafter referred to as "Act of 1996" is to appoint an Arbitrator. Notice was issued and as per office report, service is complete, but nobody has chosen to appear on behalf of the contesting respondents. Government Pleader appears for the 3rd respondent. The case, as set up by the applicant, is that on 16.10.2004, the applicant executed an agreement with the 1st Opposite Party to execute the work, namely 'Construction of balance works of Road Over Bridge at Muzhappilangadu at KM 738/7-8 in lieu of LC No.232 between Dharmadam and Edakkot and allied works'. The period of agreement was 12 months. The validity of the agreement was extended from time to time upto

31.12.2006. A huge amount is due to the applicant from the 1st Opposite Party, including the payment of more than one-half amount of the 10th part bill and full of 11th part bill. The applicant submitted Annexure A7 notice of claims on 22.7.2006 and the 1st Opposite Party did not take any action on the same. The applicant submitted Annexure A8 demand notice demanding the 1st Opposite Party to refer the claims to the Arbitrator to be appointed by the 1st Opposite Party as per Clause 67.3 of the agreement. Without considering the bonafide request of the applicant, the 1st Opposite Party issued Annexure A13 dated 13.11.2006 and intimated that the 2nd Opposite Party has already advised the 1st Opposite Party to terminate the agreement. No action has been taken by the 1st Opposite Party to appoint Arbitrator to resolve the disputes between the 1st Opposite party and the applicant. Hence, the present application for appointment of Arbitrator.

2. Clause 67.3 of the agreement deals with appointment of Arbitrator. The facts as mentioned above remain uncontroverted. The applicant has also submitted a panel of Arbitrators along with the Arbitration Request. Sri.Justice

K.K.Narendran, former Judge of this Court, residing at 181, 7th Cross Road, Giri Nagar, Kochi - 682 026 is appointed as Arbitrator.

The application is disposed of as indicated above. I.A. No.30 of 2006 does not survive.

V.K.Bali
Chief Justice

vku/-